

IC 4-6-14

Chapter 14. Health Records and Identifying Information Protection

IC 4-6-14-1

"Abandoned"

Sec. 1. As used in this chapter, "abandoned" means voluntarily surrendered, relinquished, or disclaimed by the health care provider or regulated professional, with no intention of reclaiming or regaining possession.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-2

"Health care provider"

Sec. 2. As used in this chapter, "health care provider" means:

- (1) a person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11); or
- (2) a person licensed, certified, registered, or regulated by an entity described in IC 25-0.5-11.

As added by P.L.84-2010, SEC.1. Amended by P.L.226-2011, SEC.1; P.L.3-2014, SEC.1.

IC 4-6-14-3

"Personal information"

Sec. 3. As used in this chapter, "personal information" has the meaning set forth in IC 24-4.9-2-10.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-4

"Regulated professional"

Sec. 4. As used in this chapter, "regulated professional" means an individual who is regulated by an entity described in IC 25-0.5-12.

As added by P.L.84-2010, SEC.1. Amended by P.L.3-2014, SEC.2.

IC 4-6-14-5

Attorney general's powers

Sec. 5. The attorney general may do the following with abandoned health records and other records that contain personal information:

- (1) Take possession of.
- (2) Store.
- (3) Maintain.
- (4) Transfer.
- (5) Protect.
- (6) Destroy, subject to the limitations in sections 8(b) and 9(b) of this chapter.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-6

Determination of abandonment

Sec. 6. (a) Before taking any action described in section 5 of this chapter, the attorney general shall determine whether a health care provider or regulated professional has abandoned health records or records containing personal information.

(b) A determination of abandonment under this section may only be used for the purpose of taking an action described in this chapter. However, a subsequent enforcement action may take place under a state or federal law based on proof of facts that may have contributed to the determination of abandonment if the facts are proved in a subsequent enforcement action.

(c) An investigation to make a determination of abandonment under this section must be conducted under the attorney general's authority under existing state and federal law. Nothing in this chapter shall be construed to create new authority for a subpoena or search warrant.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-7

Notification

Sec. 7. (a) The attorney general shall make reasonable efforts to notify the patients and those individuals identified in:

(1) health records; or

(2) records or documents that contain personal information; that the attorney general has taken possession of the records or documents. The notice in this subsection must include information about the procedure for either obtaining originals or copies of the records or having the original records sent to a duly authorized subsequent treating health care provider.

(b) Unless prohibited by law, the attorney general may also notify other persons, including professional organizations, hospitals, law enforcement agencies, and government units, who:

(1) may be able to assist in notifying persons whose records were abandoned and secured by the attorney general under this chapter; and

(2) when appropriate, may be able to assist in returning the records to those persons.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-8

Length of time health records must be maintained; destruction of records

Sec. 8. (a) The attorney general shall maintain health records obtained under section 5 of this chapter for the lesser of the following:

(1) The time required under IC 16-39-7-1 and IC 16-39-7-2.

(2) Three (3) years after the date the records are secured.

(b) When the time expires under subsection (a), the attorney

general may destroy the health records obtained under section 5 of this chapter.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-9

Length of time personal information records must be maintained; destruction of records

Sec. 9. (a) The attorney general shall maintain records that are not health records but contain personal information for at least three (3) years after the date the records are seized or secured.

(b) When the time expires under subsection (a) and after notification under section 7 of this chapter, the attorney general may destroy the records that contain personal information.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-10

Health records and personal identifying information protection trust fund

Sec. 10. (a) The health records and personal identifying information protection trust fund is established for the purpose of paying storage, maintenance, copying, mailing, and transfer of:

(1) health records; and

(2) records containing personal information;

as required under this chapter. Expenditures from the trust fund may be made only to carry out the purposes of this subsection.

(b) Subject to subsection (c), if a health care provider or a regulated professional is disciplined under IC 25-1-9 or IC 25-1-11, the board that issues the disciplinary order shall impose a fee against the individual of five dollars (\$5). The fee must be deposited into the health records and personal identifying information protection trust fund.

(c) If the amount in the health records and personal identifying information protection trust fund exceeds seventy-five thousand dollars (\$75,000), the fee imposed under subsection (b) may not be imposed on an individual who is subject to a disciplinary order.

(d) The attorney general shall administer the trust fund.

(e) The expenses of administering the trust fund shall be paid from the money in the fund.

(f) The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(g) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-11

Immunity

Sec. 11. The attorney general is immune from civil liability for

destroying or failing to maintain custody and control of any record obtained under this chapter.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-12

Cooperation with other agencies

Sec. 12. The following may cooperate with the attorney general's office to implement this chapter:

- (1) The Indiana professional licensing agency and the appropriate board that regulates a health care provider or a regulated professional under IC 25.
- (2) The state police department.
- (3) A prosecuting attorney.
- (4) Local law enforcement agencies.
- (5) Federal law enforcement agencies.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-13

Rules

Sec. 13. The attorney general may adopt rules under IC 4-22-2 that are necessary to administer and implement this chapter.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-14

Judicial review

Sec. 14. A determination by the attorney general that health records or other records that contain personal information have been abandoned is subject to review in a circuit or superior court. A person who seeks to enforce this section must first notify the attorney general of the intention to seek judicial review.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-15

Funding

Sec. 15. The attorney general may pay for the administration of this chapter only from funds currently appropriated to the office of the attorney general.

As added by P.L.84-2010, SEC.1.